

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 03 MAY 2004	
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Applicant's or agent's file reference Sch/svkKVLMT-2pct	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEAA16)	
International application No. PCT/NL 03/00418	International filing date (day/month/year) 05.06.2003	Priority date (day/month/year) 06.06.2002
International Patent Classification (IPC) or both national classification and IPC A61F5/01		
Applicant KVLMT B.V. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).



 These annexes consist of a total of 2 sheets.

EPO - DG 1

04. 06. 2004

3. This report contains indications relating to the following items:

I	<input checked="" type="checkbox"/>	Basis of the opinion	(37)
II	<input type="checkbox"/>	Priority	
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	
IV	<input type="checkbox"/>	Lack of unity of invention	
V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
VI	<input type="checkbox"/>	Certain documents cited	
VII	<input type="checkbox"/>	Certain defects in the international application	
VIII	<input type="checkbox"/>	Certain observations on the international application	

Date of submission of the demand 31.12.2003	Date of completion of this report 30.04.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Lega D'Incecco, A.M. Telephone No. +49 89 2399-2339 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/NL 03/00418

I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-5 as originally filed

Claims, Numbers

1-6 received on 31.12.2003 with letter of 12.11.2003

Drawings, Sheets

1/5-5/5 as originally filed

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☒ the claims, Nos.: 7,8
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/NL 03/00418**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-6
	No: Claims	
Inventive step (IS)	Yes: Claims	1-6
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/NL03/00418

V.

1. Document US-A-6 090 057 (D1) discloses an orthopaedic device from which the subject-matter of claim 1 differs in that the bounding means comprise a flexible, tensively strong element of optionally adjustable length, the ends of which are connected to these rings such that the flexible element can bound the pivoting movement of at least one hinge.

The characterising features of claim 1 allows the joint to be light since the bounding means are operative at a distance of the joint.

Therefore the subject-matter of claim 1 is novel (Article 33(2) PCT) and involves an inventive step (Art. 33(3) PCT).

2. Claims 2-6 relate to preferred embodiments of the subject-matter of claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.
3. Industrial applicability is self evident (Art. 33(4) PCT)
4. However, the application does not meet the requirements of the PCT in the following respects:
 - 4.1 Claim 1 is not clear (article 6 PCT), since the expressions "in particular", "for example" "such as", "for instance" and "optionally" have no limiting effect on the scope of the claim, that is to say, that the feature following any such expression is to be regarded as entirely optional (see PCT Guidelines, Chapter III-4.6).
 - 4.2 The expression "at least more or less" used in claim 1 is vague and unclear and leaves the reader in doubt as to the meaning of the technical feature to which it refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.
 - 4.3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/NL03/00418

- 4.4 The description is not in conformity with the claims as required by Rule 5.1(a)(iii) PCT.
- 4.5 Although claim 1 is drafted in the two-part form some of the features are incorrectly placed in the characterising portion, as they are disclosed in document D1 in combination with the features placed in the preamble (Rule 6.3(b) PCT).
- 4.6 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).